

## **Wivenhoe Town Council (written by Dr Chris Gibson) - Matter 1 Hearing statement - Habitats Regulations Assessment**

### **4. Does the HRA take adequate account of the implications for European sites of the Section 1 Plan in respect of:**

#### **(b) powered paragliding?**

So far as I have seen, the HRA takes no account of disturbing activities which do not commence on or close to the site and which are not subject to land or water-based enforcement. Paragliding is just one of a suite of such activities, perhaps more generally considered 'low flying aircraft'. But it is potentially the least controllable given that it is less dependent on ground infrastructure (runways, clubs) than fixed wing aircraft.

Low flying aircraft activities, civilian and military, recreational and otherwise, are already a significant issue as they take place currently and are among the most disturbing of all near estuary activities; more people means more demand for such activities. They must be regulated adequately for the plan to be able to be compliant.

Failure to include such activities also means that Zones of Influence are significantly underestimated. ZOIs are determined largely by visitor surveys of people visiting the coast on foot or by car, and therefore underestimate those visitors who may come from further afield either for specific 'lure of the sea' users (eg jetskiers) or those whose propensity to move long distances from their point of origin (aircraft of all kinds) is great. And sadly it is precisely these noisy activities which are among the most damaging/disturbing.

#### **(c) loss of feeding grounds at Tendring Colchester Borders GC for lapwings and golden plovers?**

Para 6.7-14 relevant here. Continued surveillance to ascertain whether significant usage by these species, followed by targeted habitat protection, enhancement and creation to offset displacement is probably a viable strategy for these widely dispersed, but important, species.

### **5. Would implementation of the mitigation measures proposed in the RAMS document [EXD/050] ensure that the Section 1 Plan (either alone or in combination with other plans or projects) would not adversely affect the integrity of any European site?**

I take this to mean 'will the mitigation work' as opposed to 'will the mitigation be delivered', which I interpret as q6.

In my expert opinion, implementation of the mitigation measures proposed in the RAMS document [EXD/050] WOULD NOT ENSURE that the Section 1 Plan (either alone or in combination with other plans or projects) would not adversely affect the integrity of any European site. I stress the word 'ensure'. If all of the mitigation measures were deployed everywhere, all the time, robustly and in perpetuity, they may be successful in mitigating. But 'may' is insufficiently certain to meet the test that the Competent Authority can 'ascertain that the plan/project will not have an adverse effect on the integrity of the Euro sites.'

(See paras 25-27 of my Sept 19 submission for exploration of the legal tests).

The problem (actually, their problem) is that so far as I am aware, despite RAMS-style approaches being advocated and deployed in several areas over the past decade, none have been able to demonstrate that the requisite mitigation has actually been delivered. I maintain that just because this approach has been used elsewhere to secure regulatory compliance, that in itself is not justification for its use anywhere else, unless and until those predecessor schemes can positively demonstrate success.

If and when evidence can be produced which does indicate RAMS schemes elsewhere have proved demonstrably successful, then the next question that must be asked of (and answered by) the applicants is whether the commonalities between the issues and solutions at those other locations and the situation appertaining to the Essex Coast are sufficiently close. Given the scale and complexity of the Essex Coast, the spatial and temporal variation in its use by wildlife, and the unprecedented scale of the proposed 'near-estuary' additional housing provision (among other factors), I would argue that it is by no means safe to assume that an approach which works elsewhere will work here.

In practical terms the RAMS relies on a. soft measures (signage, education etc), supported by b. enforcement (wardening), and informed by c. ongoing monitoring. Pretty much that which we have already, where for example hugely convoluted coastline of Essex is covered by just one Marine Police enforcement unit, and where we see regular unprosecuted breaches of byelaws which are probably already exerting downward pressure on the international wildlife interests and values. Marine-based wardens would need to be present continuously throughout most of the year around most of the coastline to exert control: the proposal for two such wardens will not deliver an effective mitigation service across the full extent of the coast.

Furthermore, some sectors of the visitor spectrum are notoriously resistant to 'soft measures', notably (but not exclusively) personal water craft users.

And in respect of the (welcome) third leg of the mitigation response (ongoing monitoring), it must be remembered that monitoring is NOT mitigation. Only if the results of monitoring are analysed and fed back as nearly instantaneously as possible, and those then trigger a rapid additional mitigational response can they be considered as part of the (currently hypothetical) mitigation plan. And the RAMS contains no hint of what additional measures may be considered, possible, available or affordable if its inherent monitoring shows the 'routine RAMS measures' to be in any way unsuccessful in offsetting additional visitor pressures.

The above point also begs a further question, is it even possible to detect adverse impacts, pressures and trends early enough to prevent the site(s) from falling into integrity deficit, even if additional mitigation measures are available?

What I assume will happen is that if adverse trends are detected and damage is indeed demonstrated, those who look at the question down the line will simply have to accept the losses to our natural capital. Certainly I cannot envisage NEGC accepting that some or all or the new housing will have to be demolished without notice at some unspecified time in the future if hindsight shows it to be unsustainable. Given this, the need for an appropriately robust deployment of the precautionary principle at this early stage is paramount.

**6. Would the policies of the Section 1 Plan (including if necessary the relevant amendments suggested by the NEAs) provide sufficient certainty that the necessary mitigation measures will**

**be implemented in order to ensure that the Section 1 Plan (either alone or in combination with other plans or projects) would not adversely affect the integrity of any European site?**

Some of my previous response impinges upon this question. But another hugely relevant point is that the RAMS (even if it can be demonstrated to be successful) is required in perpetuity. The RAMS itself recognises this, but the delivery schedule seems not to go beyond 2038. Less than twenty years in the future, if measures were to cease then (well before the intended completion date of construction, and so before full impacts and thus mitigational requirements would be apparent) the overall plan would clearly be in breach of current environmental regulations.